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EXAMINER

TESLOVICH, TAMARA

ART UNIT

PAPER NUMBER

2137

MAIL DATE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/088,148	Applicant(s) IKEDA, KIYOKAZU	
	Examiner Tamara Teslovich	Art Unit 2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5 and 9-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5 and 9-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to Applicant's Remarks and Amendments filed May 6, 2008.

Claims 3-4 and 6-8 remain cancelled.

Claims 1-2, 5, 9 and 17 are amended.

Claims 1-2, 5, and 9-17 are pending and herein considered.

Response to Arguments

Applicant's arguments, filed May 6, 2008, with respect to the rejection(s) of claim(s) 1, 2, 5 and 9-17 under 35 U.S.C. 102(e) in view of United States Patent No. 6,856,820 B1 to Kolls have been fully considered but are not persuasive.

In response to Applicant's suggestion that Kolls fails to teach or suggest "a navigation unit having a gyro which is operable to obtain the current position of the respective moving body without the use of the GPS radio waves," the Examiner respectfully disagrees for the following reasons.

First, the Examiner would like to draw attention to Applicant's use of suggestive and optional claim language throughout his claims amendments, including but not limited to his use of the phrases "operable to" and "usable for." The subject matter of a properly construed claim is defined by the terms that limit its scope. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. ***Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular***

structure does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question as to the limiting effect of the language in a claim: (A) ***statements of intended use or field of use***, (B) “adapted to” or “adapted for” clauses, (C) “wherein” clauses, or (D) “whereby” clauses. This list of examples is not intended to be exhaustive. See also MPEP § 2111.04.

Claims are to be given their broadest reasonable interpretation in light of supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim should not be read into the claim. E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted “in view of the specification” without importing limitations from the specification into the claims unnecessarily). In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) (“During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.”).

Furthermore, Applicant relies upon his addition of a "gyro which is operable to obtain the current position of the respective moving body without the use of the GPS

radio waves" to distinguish over the prior art. Applicant calls attention to pages 15-16 of his specification for support for his amendment, but fails to specifically point out where it is that he teaches a "gyro which is operable to obtain the current position of the respective moving body without the use of the GPS radio waves." The word "gyro" appears only twice in Applicant's specification, once on the bottom of page 15 wherein Applicant discloses "a gyro 6b, which detects the direction in which the vehicle is moving" and once on page 21 wherein Applicant discloses how "interface 14 also receives an input of the direction of travel information detected by the gyro." Each of these portions discloses the use of a gyro to collection information related to the direction of travel, NOT the location of the device. In fact, although the Examiner is familiar with the use of gyroscopes in inertial navigation systems in order to measure angular velocity (directional information), however, the Examiner is unaware of any scenario in which a gyroscope may be used to determine location information without the additional use of information collected from an exterior source such as GPS to serve as a inertial reference or original orientation. Applicant has provided no support for his use of gyroscope information by itself to determine the location of his electronic appliance, nor is the Examiner aware of the existence of such support.

Insofar as the Examiner is unaware of the existence of any "gyro which is operable to obtain the current position of the vehicle without the use of the GPS radio waves" and unable to find support for such a limitation in Applicant's disclose, she is unable to import to the claims such a limitation. As such, she has been forced to interpret the newly amended claim limitations so that they are consistent with the

invention as claimed in order to perform an additional search and consideration of the claims as presented. The Examiner has interpreted Applicant's "a navigation unit having a gyro which is operable to obtain the current position of the vehicle without the use of the GPS radio waves" to include "a navigation unit having means to determine the current position of the respective moving body without the use of the GPS radio waves."

It is based upon the above made arguments in view of the reference in its entirety that the Examiner disagrees with Applicant's allegation that Kolls fails to teach or suggest Applicant's *claimed* invention in its entirety. As such, the Examiner maintains her previously set forth 35 U.S.C. 102(e) rejections of claims 1, 2, 5, and 9-17, amended below in accordance with Applicant's amendments.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: how a

gyroscope may be used by itself to determine the location of Applicant's electronic appliance without the use of GPS or other external information to provide an initial orientation of the device. Independent claims 1, 2, 5, 9, and 17 provides for the use of a gyro to obtain the current position of the respective moving body without the use of the GPS radio waves, but, since the claim does not set forth any steps involved in the method/process or how the gyro information may be used alone to determine the location, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claim 17 is additionally rejected for its use of the phrase "a navigation unit" not once but twice in the same claim, causing confusion as to whether there exist one or two navigation units. Consequentially, it is unclear whether the "the navigation unit" referred to throughout claim 17 refers to the first navigation unit or the second, if there are in fact two.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1, 2, 5 and 9-17 are rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent No. 6,856,820 B1 to Kolls.

Regarding **claim 1**, Kolls discloses a service providing system (col.3 line 45 thru col.4 line 20), including, at least, a plurality of electronic appliances, a service server (Internet based server), a communication network, and an authentication server being connected to the communication network; each electronic appliance (in-vehicle device) being equipped with a wireless communication terminal function, being mounted in a moving body, and being assigned a unique device ID, and the service server (Internet based server) having a function for providing a predetermined service and storing said unique device ID for each electronic appliance to which service can be provided, the service providing system comprising; authentication process means for allowing a communication terminal apparatus (global appliance/internet appliance) to access a respective electronic appliance (in-vehicle device) only when the communication terminal apparatus (global appliance/internet appliance) has been authenticated; registration means for registering said unique device ID assigned to said each electronic appliance and transmission means for using said unique device ID to provide access, via communication network, from the service server (Internet based server) to a specified electronic appliance to which a specified service needs to be provided and transmitting service information, which has a predetermined content for realizing the specified service, to the specified electronic appliance, in which the communication terminal apparatus and the service server can access the electronic appliance only through the authentication server (col.3 line 45 thru col.4 line 20; col.14 lines 11-49; col.26 lines 65-67; col.55 lines 4-23), and in which said each electronic appliance includes (i) a receiving device operable to receive global positioning satellite (GPS)

radio waves usable for determining a current position of the respective moving body (col.2 lines 59-64; col.34 lines 20-35; col.43 line 59 thru col.44 line 10; col.46 lines 11-19), and (ii) a navigation unit having means to determine the current position of the respective moving body without the use of the GPS radio waves (col.1 lines 19-21 "engine performance data"; col.3 lines 54-56 "vehicle telemetry and metric data can include global positioning system (GPS) data, vehicle operational data, engine performance data, and other vehicle data"; col.6 lines 45-59 "parking proximity sensor" and "further interconnection to a vehicle's control system, engine control system or other vehicle operational point"; col.7 lines 22-64; col.32 lines 11-25 "vehicle monitoring and metering means").

Regarding **claim 2**, Kolls discloses a service providing system (col.3 line 45 thru col.4 line 20), including, at least, a plurality of electronic appliances, a service server (Internet based server), a communication network, and an authentication server being connected to the communication network; each electronic appliance (in-vehicle device) being equipped with a wireless communication terminal function, being mounted in a moving body , and being assigned a unique device ID, and the service server (Internet based server) having a function for providing a predetermined service and storing said unique device ID for each electronic appliance to which service can be provided, the service providing system comprising; authentication process means for allowing a communication terminal apparatus (global appliance/internet appliance) to access a respective electronic appliance (in-vehicle device) only when the communication

terminal apparatus (global appliance/internet appliance) has been authenticated; first transmission means for providing access, via said communication network, from one of said electronic appliances to said service server (Internet based server) and transmitting information which has a predetermined content that can be used by a specified service from said one of said electronic appliances to said service server (Internet based server); and second transmission means for using said unique device ID to provide access, via said communication network, from said service server (Internet based server) to a specified electronic appliance to which a specified service needs to be provided and transmitting service information, which has a predetermined content for realizing the specified service, to the specified electronic appliance only through the authentication server (col.3 line 45 thru col.4 line 20); in which the communication terminal apparatus and the service server can access the electronic appliance only through the authentication server (col.3 line 45 thru col.4 line 20; col.14 lines 11-49; col.26 lines 65-67; col.55 lines 4-23), and in which said each electronic appliance includes (i) a receiving device operable to receive global positioning satellite (GPS) radio waves usable for determining a current position of the respective moving body (col.2 lines 59-64; col.34 lines 20-35; col.43 line 59 thru col.44 line 10; col.46 lines 11-19), and (ii) a navigation unit having means to determine the current position of the respective moving body without the use of the GPS radio waves (col.1 lines 19-21 "engine performance data"; col.3 lines 54-56 "vehicle telemetry and metric data can include global positioning system (GPS) data, vehicle operational data, engine performance data, and other vehicle data"; col.6 lines 45-59 "parking proximity sensor"

and "further interconnection to a vehicle's control system, engine control system or other vehicle operational point"; col.7 lines 22-64; col.32 lines 11-25 "vehicle monitoring and metering means").

Regarding **claim 5**, Kolls discloses a service providing system (col.3 line 45 thru col.4 line 20), composed of an electronic appliance, a communication network, a communication terminal apparatus, and an authentication server, the electronic appliance (in-vehicle device) being one of an electronic appliance that mounted in a moving body and is equipped with a mobile communication terminal function and a mobile communication terminal apparatus (global appliance/internet appliance) with a fixed access path to the communication network and the authentication server being connected to said communication network, the service providing system comprising; access means that enables the communication terminal apparatus (global appliance/internet appliance) to access the electronic appliance via the communication network using a device ID store in a service server that has been assigned uniquely to the electronic appliance, the communication terminal apparatus accessing the electronic appliance only through the authentication server; terminal ID generating means, provided on said communication network, for generating a terminal ID for said communication terminal apparatus using information that identifies said fixed access path by which said communication terminal apparatus accesses said communication network; registration means for registering said unique device ID assigned to each electronic appliance and authentication process means provided in said authentication

server, for using said terminal ID to perform an authentication process for said communication terminal apparatus that has accessed the authentication server and allowing said communication terminal apparatus to access said electronic appliance only when the communication terminal apparatus has been authenticated; and transmission/reception means for receiving and transmitting service information, which has a predetermined content for realizing a specified service, between said communication terminal apparatus that has been authenticated by said authentication process means and said electronic appliance (uniquely identify and transfer information), in which the service server can access the electronic appliance only through the authentication server (col.3 line 45 thru col.4 line 20; col.14 lines 11-49; col.26 lines 65-67; col.55 lines 4-23), and in which said each electronic appliance includes (i) a receiving device operable to receive global positioning satellite (GPS) radio waves usable for determining a current position of the respective moving body (col.2 lines 59-64; col.34 lines 20-35; col.43 line 59 thru col.44 line 10; col.46 lines 11-19), and (ii) a navigation unit having means to determine the current position of the respective moving body without the use of the GPS radio waves (col.1 lines 19-21 "engine performance data"; col.3 lines 54-56 "vehicle telemetry and metric data can include global positioning system (GPS) data, vehicle operational data, engine performance data, and other vehicle data"; col.6 lines 45-59 "parking proximity sensor" and "further interconnection to a vehicle's control system, engine control system or other vehicle operational point"; col.7 lines 22-64; col.32 lines 11-25 "vehicle monitoring and metering means").

Regarding **claim 9**, Kolls discloses a communication apparatus (col.2 lines 5-65) for controlling communication between a plurality of electronic appliances, each electronic appliance being connected to a network, being provided with a unique device ID for identifying the electronic appliance, and being capable of transmission, the communication apparatus comprising communication means for communicating with another communication apparatus via said network; storage means for storing group information in which the plurality electronic appliances, which are permitted to communicate between themselves after the communication is authenticated, are registered as a group; authentication process means for allowing a communication terminal apparatus (global appliance/internet appliance) to access the electronic appliance (in-vehicle device) only when the communication terminal apparatus (global appliance/internet appliance) has been authenticated; registration means for registering said unique device ID assigned to each electronic appliance; a service server operable to provide service information to one or more of the electronic appliances; and judgment means for judging, based on unique device IDs transmitted via the network before communication commences between said plurality electronic appliances and group information stored in said storage means, whether the communication is permitted; control means for having said communication means transmit a result judgment means to an exchange apparatus that is connected to said network and performs an exchange process for communication between electronic appliances based on the transmitted unique device IDs, in which the respective device and the service server can access the

Art Unit: 2136

respective electronic appliance or appliances only through the authentication server (uniquely identify and transfer information) (col.3 line 45 thru col.4 line 20; col.14 lines 11-49; col.26 lines 65-67; col.55 lines 4-23), and in which said each electronic appliance is mountable in a moving vehicle and includes (i) a receiving device operable to receive global positioning satellite (GPS) radio waves usable for determining a current position of the respective moving body (col.2 lines 59-64; col.34 lines 20-35; col.43 line 59 thru col.44 line 10; col.46 lines 11-19), and (ii) a navigation unit having means to determine the current position of the respective moving body without the use of the GPS radio waves (col.1 lines 19-21 "engine performance data"; col.3 lines 54-56 "vehicle telemetry and metric data can include global positioning system (GPS) data, vehicle operational data, engine performance data, and other vehicle data"; col.6 lines 45-59 "parking proximity sensor" and "further interconnection to a vehicle's control system, engine control system or other vehicle operational point"; col.7 lines 22-64; col.32 lines 11-25 "vehicle monitoring and metering means").

Regarding **claim 10**, Kolls discloses wherein a wireless communication is performed between said electronic appliances and the exchange apparatus (col.3 line 45 thru col.4 line 20).

Regarding **claim 11**, Kolls discloses wherein said electronic appliances are navigation apparatuses (col.3 line 45 thru col.4 line 20).

Regarding **claim 12**, Kolls discloses wherein one or more of said electronic appliances are mobile telephones (col.3 line 45 thru col.4 line 20).

Regarding **claim 13**, Kolls discloses wherein each of said electronic appliances is connected to said communication means in said exchange apparatus, and when communicating, each of said electronic appliances transmits said unique device ID to said communication apparatus, said exchange apparatus transmits a communication means ID for specifying said communication means to said communication apparatus, said communication apparatus authenticates said electronic appliance based on said group information, by referring combination of said transmitted unique device ID and said transmitted communication means ID (col.1 lines 40-48, col.5 lines 42-63).

Regarding **claim 14**, Kolls discloses wherein the group information is generated when an electronic appliance communicates with the communication apparatus via the network (col.3 line 45 thru col.4 line 20).

Regarding **claim 15**, Kolls discloses wherein the group information also includes content data that can be used by the electronic appliances which are registered in the group information (col.3 line 45 thru col.4 line 20).

Regarding **claim 16**, Kolls discloses wherein the content data is geographical information (col.3 line 45 thru col.4 line 20).

Regarding **claim 17**, Kolls discloses a service providing system operable within the Internet, said system comprising a navigation unit mountable in a vehicle and operable to provide navigational and positional information of the vehicle to an operator of the vehicle, said navigation unit being assigned a unique identification ID (col.32 line 49 through col.33. line 34); a service server operable to provide a predetermined service and to store said unique ID for said navigation unit to which service can be provided (col.34 lines 36-62; col.35 lines 1-15); a communication network connectable to the Internet (col.34 lines 19-43); an authentication server operable to determine if access to the navigation unit is permissible (col.14 lines 11-49; col.26 lines 65-67; col.55 lines 4-23); and a communication terminal apparatus connectable to the navigation unit and the communication network and operable to enable information to be supplied to the navigation unit from the Internet by way of the communication network and to enable service information to be supplied to the navigation unit by use of said unique ID from the service server by way of the Internet and the communication network (col.34 lines 36-62; col.35 lines 1-15), in which the communication terminal apparatus and the service server can access the navigation unit only through the authentication server (col.3 line 45 thru col.4 line 20; col.14 lines 11-49; col.26 lines 65-67; col.55 lines 4-23), and in which the navigation unit includes (i) a receiving device operable to receive global positioning satellite (GPS) radio waves usable for determining a current position of the respective moving body (col.2 lines 59-64; col.34 lines 20-35; col.43 line 59 thru col.44 line 10; col.46 lines 11-19), and (ii) a navigation

unit having means to determine the current position of the respective moving body without the use of the GPS radio waves (col.1 lines 19-21 "engine performance data"; col.3 lines 54-56 "vehicle telemetry and metric data can include global positioning system (GPS) data, vehicle operational data, engine performance data, and other vehicle data"; col.6 lines 45-59 "parking proximity sensor" and "further interconnection to a vehicle's control system, engine control system or other vehicle operational point"; col.7 lines 22-64; col.32 lines 11-25 "vehicle monitoring and metering means").

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara Teslovich whose telephone number is (571) 272-4241. The examiner can normally be reached on Mon-Fri 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tamara Teslovich/

Examiner, Art Unit 2137

/Nasser G Moazzami/

Supervisory Patent Examiner, Art Unit 2136